

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GREGORY BAINBRIDGE, et al.,

2:13-CV-516 JCM (NJK)

Plaintiff(s),

V.

WELLS FARGO BANK NATIONAL
ASSOCIATION, et al.,

Defendant(s).

ORDER

Presently before the court is defendants Laura Harbison and John Harbison's motion to dismiss. (Doc. # 11). Plaintiffs Gregory Bainbridge and Sherryl Bainbridge had up to, and including May 23, 2013, to file a response.¹ To date, plaintiffs have failed to respond.

Also before the court is defendants Wells Fargo Bank, National Association and Federal Home Loan Mortgage Corporation's motion to dismiss. (Doc. # 12). Plaintiffs had up to, and including May 23, 2013, to file a response.² To date, plaintiffs have failed to respond.

Pursuant to Local Rule 7-2(d), an opposing party's failure to file a timely response to any motion constitutes the party's consent to the granting of the motion and is proper grounds for dismissal. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the

¹ This is following two stipulations to extend time: from May 9, 2013, to May 16, 2013 (doc. # 19); and from May 16, 2013, to May 23, 2013 (doc. # 25).

² This is following two stipulations to extend time: from May 9, 2013, to May 16, 2013 (doc. # 18); and from May 16, 2013, to May 23, 2013 (doc. # 26).

1 district court is required to weigh several factors: "(1) the public's interest in expeditious resolution
 2 of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants;
 3 (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less
 4 drastic sanctions." *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v. Duncan*,
 5 779 F.2d 1421, 1423 (9th Cir. 1986)).

6 The instant motions seek dismissal of plaintiff's complaint that alleges wrongful conveyance
 7 of plaintiffs' home following foreclosure proceedings. Each motion requests dismissal of all claims
 8 asserted against the moving defendants. In light of plaintiffs' failure to respond, and weighing the
 9 factors identified in *Ghazali*, the court finds dismissal appropriate.

10 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendants Laura Harbison
 11 and John Harbison's motion to dismiss (doc. # 11) be, and the same hereby is, GRANTED. This case
 12 is hereby dismissed without prejudice against the Harbison defendants.

13 IT IS FURTHER ORDERED that defendants Wells Fargo Bank, National Association and
 14 Federal Home Loan Mortgage Corporation's motion to dismiss (doc. # 12) be, and the same hereby
 15 is, GRANTED. This case is hereby dismissed without prejudice against these defendants.

16 This case remains open against defendant MTC Financial, Inc.³

17 DATED May 28, 2013.

18
 19 
 20 UNITED STATES DISTRICT JUDGE

21

22

23

24

25

26

27

28

³ It does not appear that MTC Financial, Inc. has been served in this matter.